

ASSEMBLY BILL

No. 628

Introduced by Assembly Member Block

February 25, 2009

An act to amend Sections 23302 and 40255 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as introduced, Block. Vehicles: toll evasion violations.

(1) Existing law makes it unlawful for any person to refuse to pay tolls or other charges on any vehicular crossing or toll highway and provides that it is prima facie evidence of a violation of this provision for any person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. A violation of these provisions is an infraction.

This bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without at least one of the following: (A) lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person, or (B) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with

a balance sufficient to pay those tolls, or (C) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway. Where electronic toll collection is the only other method of paying tolls or other charges, the bill would provide that it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without either (i) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (ii) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(2) Existing law provides that the officer or person authorized to issue a notice of toll evasion violation is not required to participate in an administrative review of the toll evasion violation and that the issuing agency is not required to produce any evidence other than the notice of toll evasion violation or a copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violations. Under existing law perjury is a crime.

This bill would require, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll processing and payment, the required statement under penalty of perjury from the officer or person reporting the violation to include a statement that the tolls or other charges and any applicable fee were not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment.

(3) The bill would make other technical, nonsubstantive and conforming changes to these provisions.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 23302 of the Vehicle Code is amended to read:

23302. (a) It is unlawful for ~~any~~ a person to ~~refuse~~ fail to pay tolls or other charges on any vehicular crossing or toll highway. ~~It~~ *Subject to subdivision (b), (c), or (d), it is prima facie evidence of a violation of this section for* ~~any~~ a person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. *If a transponder or other electronic toll payment device is used to pay tolls or other charges due, the device shall be located in, or on the vehicle in a location so as to be visible for the purpose of enforcement at all times when the vehicle is located on the vehicular crossing or toll highway. Where required by the operator of a vehicular crossing or toll highway, this requirement applies even if the operator offers free travel or nontoll accounts to certain classes of users.*

(b) For vehicular crossings and toll highways that ~~uses~~ use electronic toll collection as the only method of paying tolls or other charges, it is prima facie evidence of a violation of this section for ~~any~~ a person to enter the vehicular crossing or toll highway without a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. ~~If a transponder or other electronic toll payment device is used to pay tolls or other charges due, the device shall be located in, or on the vehicle in a location so as to be visible for the purpose of enforcement at all times when the vehicle is located on the vehicular crossing or toll highway. Where required by the operator of a vehicular crossing or toll highway, this requirement applies even if the operator offers free travel or nontoll accounts to certain classes of users.~~

(c) *Subject to subdivision (d), for vehicular crossings and toll highways where the issuing agency, as defined in Section 40250, permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a violation of this section for a person*

1 to enter the vehicular crossing or toll highway without at least one
2 of the following:

3 (1) Lawful money of the United States in the person's immediate
4 possession in an amount sufficient to pay the prescribed tolls or
5 other charges due from that person.

6 (2) A transponder or other electronic toll payment device
7 associated with a valid Automatic Vehicle Identification account
8 with a balance sufficient to pay those tolls.

9 (3) Valid California vehicle license plates properly affixed to
10 both the front and rear of the vehicle in which that person enters
11 onto the vehicular crossing or toll highway.

12 (d) For vehicular crossings and toll highways where the issuing
13 agency, as defined in Section 40250, permits pay-by-plate toll
14 processing and payment of tolls and other charges in accordance
15 with policies adopted by the issuing agency, and where electronic
16 toll collection is the only other method of paying tolls or other
17 charges, it is prima facie evidence of a violation of this section for
18 a person to enter the vehicular crossing or toll highway without
19 either a transponder or other electronic toll payment device
20 associated with a valid Automatic Vehicle Identification account
21 with a balance sufficient to pay those tolls or valid California
22 vehicle license plates properly affixed to both the front and rear
23 of the vehicle in which that person enters onto the vehicular
24 crossing or toll highway.

25 (e) As used in this section, "Pay-by-plate toll processing and
26 payment" means an issuing agency's use of on-road vehicle license
27 plate identification recognition technology to accept payment of
28 tolls within a specified period of time following the use of the
29 vehicular crossing or toll highway by persons entering upon the
30 vehicular crossing or toll highway without the payment of tolls or
31 other charges by either cash payment in lawful money of the United
32 States or use of an electronic toll payment device associated with
33 a valid Automatic Vehicle Identification account with a balance
34 sufficient to pay the tolls or other charges, in accordance with
35 policies adopted by the issuing agency.

36 SEC. 2. Section 40255 of the Vehicle Code is amended to read:

37 40255. (a) Within 21 days from the issuance of the notice of
38 toll evasion violation, or within 15 days from the mailing of the
39 notice of delinquent toll evasion, whichever occurs later, a person
40 may contest a notice of toll evasion violation or a notice of

1 delinquent toll evasion. In that case, the processing agency shall
2 do the following:

3 (1) The processing agency shall either investigate with its own
4 records and staff or request that the issuing agency investigate the
5 circumstances of the notice with respect to the contestant's written
6 explanation of reasons for contesting the toll evasion violation. If,
7 based upon the results of that investigation, the processing agency
8 is satisfied that the violation did not occur or that the registered
9 owner was not responsible for the violation, the processing agency
10 shall cancel the notice of toll evasion violation and make an
11 adequate record of the reasons for canceling the notice. The
12 processing agency shall mail the results of the investigation to the
13 person who contested the notice of toll evasion violation or the
14 notice of delinquent toll evasion violation.

15 (2) If the person contesting a notice of toll evasion violation or
16 notice of delinquent toll evasion violation is not satisfied with the
17 results of the investigation provided for in paragraph (1), the person
18 may, within 15 days of the mailing of the results of the
19 investigation, deposit the amount of the toll evasion penalty and
20 request an administrative review. After January 1, 1996, an
21 administrative hearing shall be held within 90 calendar days
22 following the receipt of a request for an administrative hearing,
23 excluding any time tolled pursuant to this article. The person
24 requesting the hearing may request one continuance, not to exceed
25 21 calendar days.

26 (b) The administrative review procedure shall consist of the
27 following:

28 (1) The person requesting an administrative review shall indicate
29 to the processing agency his or her election for a review by mail
30 or personal conference.

31 (2) If the person requesting an administrative review is a minor,
32 that person shall be permitted to appear at an administrative review
33 or admit responsibility for a toll evasion violation without the
34 necessity of the appointment of a guardian. The processing agency
35 may proceed against that person in the same manner as if that
36 person were an adult.

37 (3) (A) The administrative review shall be conducted before a
38 reviewer designated to conduct the review by the issuing agency's
39 governing body or chief executive officer. In the case of violations
40 on facilities developed pursuant to Section 143 of the Streets and

1 Highways Code, the processing agency shall contract with a public
2 agency or a private entity that has no financial interest in the facility
3 for the provision of administrative review services pursuant to this
4 subdivision. The costs of those administrative review services shall
5 be included in the administrative fees authorized by this article.

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7 (B) *In* addition to any other requirements of employment, a
8 reviewer shall demonstrate those qualifications, training, and
9 objectivity prescribed by the issuing agency's governing body or
10 chief executive as are necessary and which are consistent with the
11 duties and responsibilities set forth in this article.

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13 (C) *The* examiner's continued employment, performance
14 evaluation, compensation, and benefits shall not be directly or
15 indirectly linked to the amount of fines collected by the examiner.

16 (4) The officer or person authorized to issue a notice of toll
17 evasion violation shall not be required to participate in an
18 administrative review. The issuing agency shall not be required to
19 produce any evidence other than the notice of toll evasion violation
20 or copy thereof, information received from the department
21 identifying the registered owner of the vehicle, and a statement
22 under penalty of perjury from the person reporting the ~~violations~~
23 *violation. For a toll evasion violation that occurs on a vehicular*
24 *crossing or toll highway where the issuing agency allows*
25 *pay-by-plate toll processing and payment, as defined in Section*
26 *23302, the required statement under penalty of perjury from the*
27 *person reporting the violation shall include a statement that the*
28 *tolls or other charges and any applicable fee was not paid in*
29 *accordance with the issuing agency's policies for pay-by-plate toll*
30 *processing and payment.* The documentation in proper form shall
31 be considered prima facie evidence of the violation.

32 (5) The review shall be conducted in accordance with the written
33 procedure established by the processing agency which shall ensure
34 fair and impartial review of contested toll evasion violations. The
35 agency's final decision may be delivered personally or by first-class
36 mail.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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